

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appl. No.: 10/092,675
Applicant(s): Jeremiah E. Halley, *et al.*
Filed: March 7, 2002
Art Unit: 1725
Examiner: L. R. Edmonson
Title: PREFORMS FOR FORMING MACHINED
STRUCTURAL ASSEMBLIES

Confirmation No.: 3821

Docket No.: 038190/234783
Customer No.: 00826

Mail Stop Issue Fee
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

**REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT
INDICATED IN NOTICE OF ALLOWANCE
AND STATEMENT OF SUPPORTING FACTS AND DOCUMENTATION
(37 C.F.R. § 1.705)**

1. This is a request for reconsideration of the patent term adjustment indicated in the Notice of Allowance mailed on November 24, 2004.
☒ The issue fee is being paid as set forth in the papers attached hereto.
2. Any patent granted on this application (37 C.F.R. § 1.705(b)(2)(iii)) is not subject to a terminal disclaimer.
3. As to circumstances during the prosecution of this application constituting a failure to engage in reasonable efforts to conclude processing or examination of this application as set forth in § 1.704 (37 C.F.R. § 1.705(b)(2)(iv)):
☒ there were none (37 C.F.R. § 1.705(b)(2)(iv)(B)).
☐ these were as follows (37 C.F.R. § 1.705(b)(2)(iv)(A))
4. The patent term adjustment shown on the Notice of Allowance is "0" days. It is respectfully suggested that the correct patent term adjustment under §1.702 is 221 days.
5. **37 CFR § 1.705(b)(2)(ii):** The basis on which applicant seeks adjustment is as follows: The enclosed PAIR printout shows an entry of 166 days of Applicant Delay Days, indicating that Applicant was late in filing a Response to the Restriction Requirement dated June 26, 2003.

Applicant submits that this is an incorrect entry on the part of the United States Patent and Trademark Office ("USPTO") and submits the following documentation for proof:

- a. Copy of the Restriction Requirement dated June 26, 2003;
- b. Copy of Applicant's Response that was faxed on July 1, 2003;

- c. Copy of Applicant's fax machine confirmation indicating the Response to the Restriction Requirement was received by the USPTO on July 1, 2004, at 9:17 a.m.

Applicant submits that this is within the "three-month" time limit for response without incurring Applicant Delay days.

Applicant further submits that the date for the USPTO to respond back to Applicant after the July 1, 2004, timely filing of the Restriction Requirement would have been November 1, 2004. The USPTO did not respond until the mailing of the Non-Final Rejection on April 28, 2004, thereby incurring **177 days of USPTO delay days**.

Calculation of Patent Term Adjustment: Based on the evidence provided above, Applicant believes that patent term adjustment for this patent should be calculated as follows:

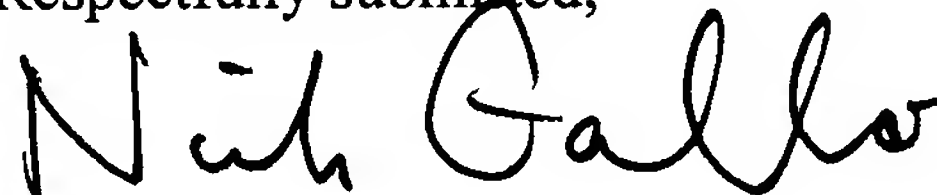
Subtract 166 days of Applicant delay days, leaving 6 days of Applicant Delay.

Add 177 USPTO delays days to the existing 50 days, totaling 227 USPTO delay days.

227 - 6 = 221 patent term adjustment days to be added to the patent term

6. The fee set forth in § 1.18(e) (\$200.00), required by 37 C.F.R § 1.705(b)(1), is paid as follows:
- ☒ Attached is a check in the amount of \$200.00.
 - ☒ Charge any additional fees required by this paper or credit any overpayment to Deposit Account 16-0605.

Respectfully submitted,

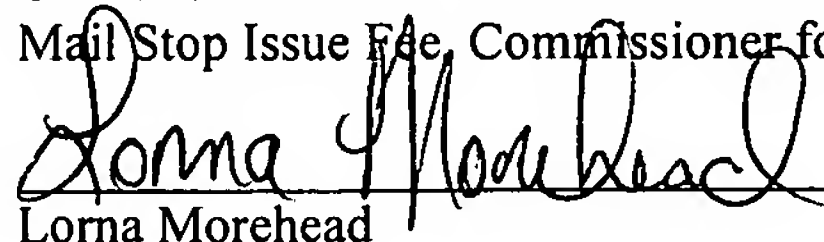


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Date of Deposit: January 26, 2005

I hereby certify that this paper or fee is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 CFR 1.10 on the date indicated above and is addressed to:
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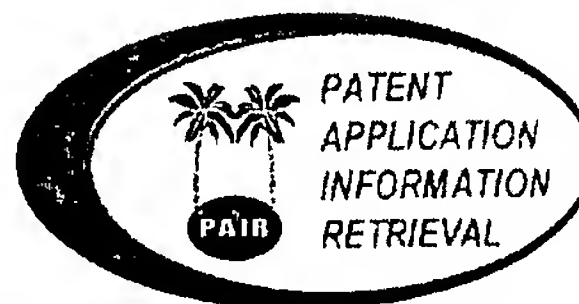
Lorna Morehead



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PATENT APPLICATION INFORMATION RETRIEVAL



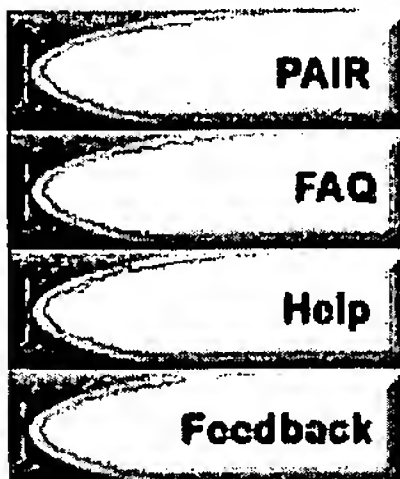
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Patent Term Adjustment (PTA) for application number: 10/092,675

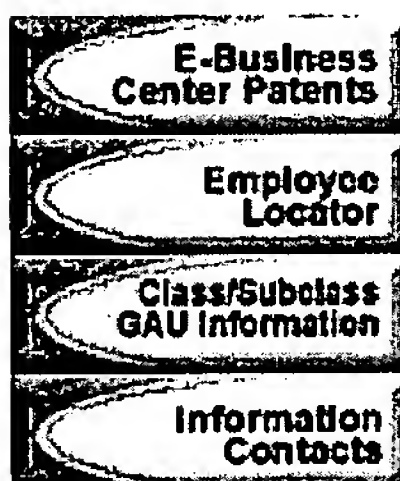
			Days
Filing or 371(c) Date:	03-07-2002	USPTO Delay (PTO):	50
Issue Date of Patent:	-	Three Years:	-
Pre-Issue Petitions (days):	+0	Applicant Delay (APPL):	472
Post-Issue Petitions (days):	+0	Total PTA:	0
USPTO Adjustment (days):	+0	Explanation of Calculations	221

224

6



Other Links



Select Search Option

Search

Days Over
4 months

Nov. 29

Dec. 31

Jan. 31

Feb. 28

MAR. 31

APR. 27





177

4 months
for USPTO
to Respond
11-1-2003Should be
July, 1, 2003

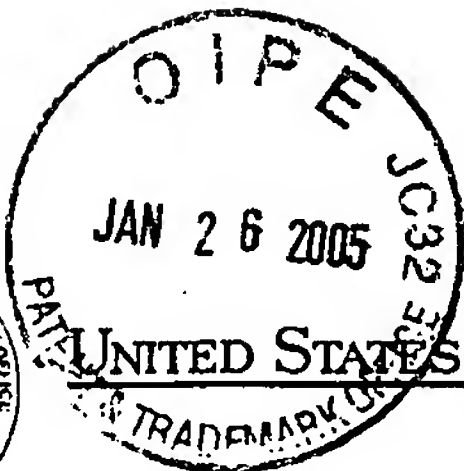
Patent Term Adjustment History

Date	Contents Description	PTO (days)	APPL (days)
11-24-2004	Mail Notice of Allowance		
11-23-2004	Issue Revision Completed		
11-23-2004	Notice of Allowance Data Verification Completed		
11-23-2004	Notice of Allowability		
11-08-2004	Date Forwarded to Examiner		
11-04-2004	Amendment after Final Rejection		
10-04-2004	Mail Final Rejection (PTOL - 326)		
09-30-2004	Final Rejection		
07-19-2004	Reference capture on IDS		
07-19-2004	Information Disclosure Statement (IDS) Filed		6
07-20-2004	IFW TSS Processing by Tech Center Complete		↑
07-20-2004	Date Forwarded to Examiner		↑
07-13-2004	Response after Non-Final Action		↑
07-13-2004	Workflow incoming amendment IFW		
04-28-2004	Mail Non-Final Rejection		
04-26-2004	Non-Final Rejection		
03-24-2004	Date Forwarded to Examiner		
03-10-2004	Response to Election / Restriction Filed		166
06-26-2003	Mail Restriction Requirement	50	↑
06-19-2003	Requirement for Restriction / Election	↑	
06-03-2003	Case Docketed to Examiner in GAU	↑	
10-25-2002	Case Docketed to Examiner in GAU	↑	
04-22-2002	Information Disclosure Statement (IDS) Filed	↑	
05-01-2002	Case Docketed to Examiner in GAU	↑	

U.S. P.T.O.

04-16-2002	Application Dispatched from OIPE		
04-12-2002	Application Is Now Complete		
03-23-2002	IFW Scan & PACR Auto Security Review		
03-07-2002	Initial Exam Team nn		

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/092,675	03/07/2002	Jeremiah E. Halley	38190.234783	3821

826 7590 06/26/2003

Alston & Bird

ALSTON & BIRD LLP
BANK OF AMERICA PLAZA
101 SOUTH TRYON STREET, SUITE 4000
CHARLOTTE, NC 28280-4000

JUN 30 2003

Received By

EXAMINER

EDMONDSON, LYNNE RENEE

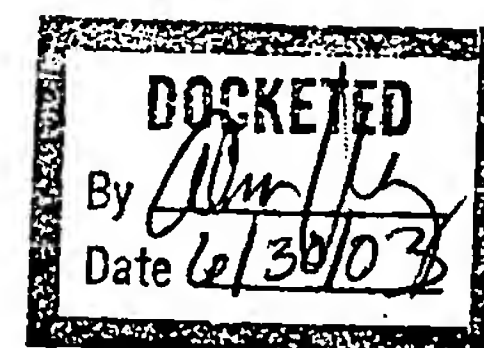
ART UNIT

PAPER NUMBER

1725

DATE MAILED: 06/26/2003

Please find below and/or attached an Office communication concerning this application or proceeding.



Office Action Summary

JAN 26 2005

Application No.

10/092,675

Applicant(s)

HALLEY ET AL.

Examiner

Lynne Edmondson

Art Unit

1725

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 March 2002.
- 2a) ☐ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-32 is/are pending in the application.
- 4a) Of the above claim(s) 1-32 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 1-32 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Election/Restrictions

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - I. Claims 1-18, drawn to a method of making a bonded article, classified in class 228, subclass 112.1.
 - II. Claims 19-22, drawn to a preform for bonding, classified in class 428, subclass 317.1.
 - III. Claims 23-32, drawn to a structural member, classified in class 52, subclass 774+.

The inventions are distinct, each from the other because of the following reasons:

2. Inventions I and II are related as process of making and product made. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make other and materially different product or (2) that the product as claimed can be made by another and materially different process (MPEP § 806.05(f)). In the instant case the process can be used to bond a sputtering target to a backing plate. The product can be made by cladding or adhesive bonding.
3. Inventions II and III are related as product and process of use. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different

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process of using that product (MPEP § 806.05(h)). In the instant case the preform can be used to bond a target to a backing plate and the structural assembly can be formed using mechanical joining means such as interlocking members or fasteners.

4. Inventions I and III are related as process of making and product made. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make other and materially different product or (2) that the product as claimed can be made by another and materially different process (MPEP § 806.05(f)). In the instant case the process can be used to make a brazing foil and the structural assembly can be formed via mechanical joining means such as interlocking members or fasteners.

5. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

6. Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

7. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one

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or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lynne Edmondson whose telephone number is (703) 306-5699. The examiner can normally be reached on Monday through Thursday from 6:30 a.m. to 5 p.m.

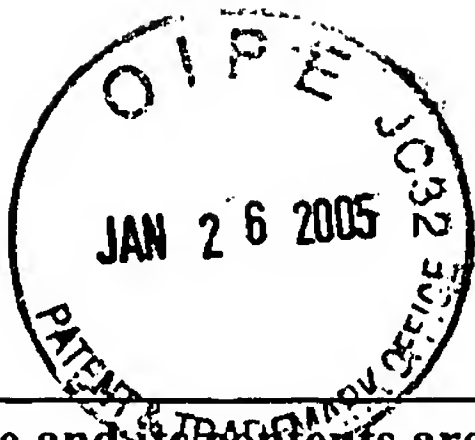
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tom Dunn can be reached on (703) 308-3318. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-7718 for regular communications and (703) 305-7115 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0651.

LRE
June 18, 2003

Lynne Edmondson
Examiner
Art Unit 1725





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DATE: July 1, 2003

TO: Examiner Lynne Edmondson - USPTO

FROM: Nick Gallo

U.S. Application No. 10/092,675 - Filed March 7, 2002

Please see the attached Response To Restriction Requirement.

Nonfinal Response

NO. OF PAGES:
(Including cover page)

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REQUESTED BY: Lorna 1146

VOICE NUMBER: (703) 306-5699

JAN 26 2005

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re: Jeremiah E. Halley, et al.

Confirmation No.: 3821

Appl No.: 10/092,675

Group Art Unit: 1725

Filed: March 7, 2002

Examiner:

Lynne Renee Edmondson

For: PREFORMS FOR FORMING

MACHINED STRUCTURAL ASSEMBLIES

July 1, 2003

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

RESPONSE TO RESTRICTION REQUIREMENT

This is in response to the Office Action dated June 26, 2003, in which the Examiner has required restriction between Group I, namely Claims 1-18, Group II, namely Claims 19-22, and Group III, namely Claims 23-32. Applicant hereby provisionally elects with traverse to prosecute the claims of Group I (Claims 1-18) and expressly reserves the right to file divisional applications or take such other appropriate measures deemed necessary to protect the inventions in the remaining claims.

Should the Examiner have further questions or comments with respect to examination of this case, it is respectfully requested that the Examiner telephone the undersigned so that further examination of this application can be expedited.

It is not believed that extensions of time or fees for net addition of claims are required, beyond those, which may otherwise be provided for in documents accompanying this paper. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 CFR § 1.136(a), and any fee required therefore (including fees for net addition of claims) is hereby authorized to be charged to Deposit Account No. 16-0605.

Respectfully submitted,



Nicholas F. Gallo

Registration No. 50,135

CUSTOMER NO. 00826

ALSTON & BIRD LLP

Bank of America Plaza

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Charlotte, NC 28280-4000

Tel Charlotte Office (704) 444-1000

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In re: Jeremiah E. Halley, et al.

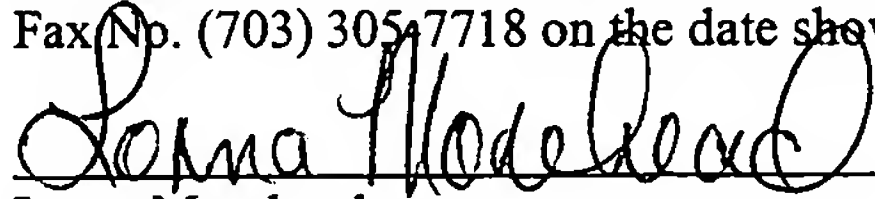
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Filed: March 7, 2002

Page 2

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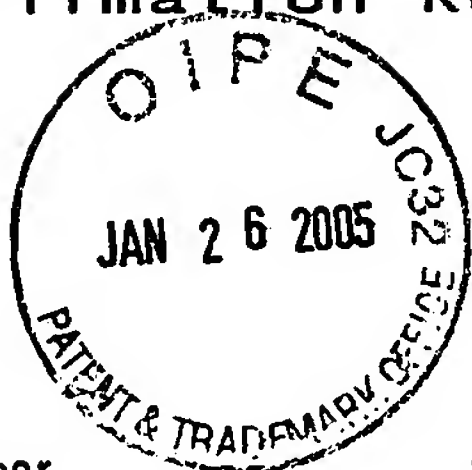
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FROM: Nick Gallo

U.S. Application No. 10/092,675 - Filed March 7, 2002

Please see the attached Response To Restriction Requirement.

Nonfinal Response

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